

12:26 pm, Sep 04, 2019

U.S. DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE NORTHEAST  
CARPENTERS HEALTH, PENSION,  
ANNUITY, APPRENTICESHIP, and LABOR  
MANAGEMENT COOPERATION FUNDS,

Plaintiffs,

-against-

CALI ENTERPRISES, INC., CALADRI  
DEVELOPMENT CORP., CALI BROTHERS,  
INC., J. CALI, INC., and CARJEN FENCE  
CO., INC.,

Defendants.

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**ADOPTION ORDER**

2:17-cv-02387 (ADS) (ARL)

**SPATT, District Judge:**

On April 21, 2017, the Plaintiffs brought this action pursuant to sections 502(a)(3) and 515 of the Employee Retirement Income Security Act, as amended, 29 U.S.C. §§ 1132(a)(3), 1145 (“ERISA”), and section 301 of the Labor Management Relations Act of 1947, 29 U.S.C. § 185 (“LMRA”), and other applicable law, to collect delinquent employer contributions to a group of employee benefit plans, and for related relief.

On September 11, 2018, the Clerk of the Court certified the Defendants’ default based upon their failure to answer or otherwise appear in this action.

On October 1, 2018, the Plaintiffs filed the instant motion for a default judgment.

On October 2, 2018, the Court referred the motion to United States Magistrate Judge Arlene R. Lindsay for a report and recommendation as to whether the motion should be granted, and if so, what if any relief should be given.

On August 20, 2019, Judge Lindsay issued a Report and Recommendation (“R&R”) recommending that the motion for default judgment be denied and that the Plaintiffs be required to address whether the Court possesses subject matter jurisdiction consistent with *Peacock v. Thomas*, 516 U.S. 349 (1996). The Plaintiff filed proof of service the same day.

It has been more than fourteen days since the service of the R&R, and the parties have not filed objections.

As such, pursuant to 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72, this Court has reviewed the R&R for clear error, and finding none, now concurs in both its reasoning and its result. *See Coburn v. P.N. Fin.*, No. 13-CV-1006 (ADS) (SIL), 2015 WL 520346, at \*1 (E.D.N.Y. Feb. 9, 2015) (reviewing Report and Recommendation without objections for clear error).

Accordingly, the R&R is adopted in its entirety. The Court denies the Plaintiffs’ motion for default judgment. The Plaintiffs are hereby directed to show cause, in writing through a memorandum to be submitted by October 4, 2019, why the Court should not dismiss this case for lack of subject matter jurisdiction.

**SO ORDERED.**

Dated: Central Islip, New York

September 4, 2019

/s/ Arthur D. Spatt

ARTHUR D. SPATT

United States District Judge